

2054.

## POUNDAGE—WHEN SHERIFF IS ENTITLED TO FEES FOR SAME.

## SYLLABUS:

*The fees of a sheriff for poundage provided by Section 2845, General Code, are allowed and given as a compensation to the sheriff for the risk incurred in handling and disbursing money actually received by him in his official capacity. Where no money is received and no risk incurred, no compensation by way of poundage is earned.*

COLUMBUS, OHIO, May 4, 1928

HON. W. S. PAXSON, *Prosecuting Attorney, Washington C. H., Ohio.*

DEAR SIR:—This will acknowledge your letter which reads as follows:

“Your Opinion No. 1943 in answer to my letter of April 2nd, was duly received, for which I thank you. It seems that I did not make my question clear, as you did not give me the information I desired. There was never any doubt in our minds about the sheriff not being entitled to charge poundage so far as the first mortgage was concerned. The thing that was worrying him and me was whether he was entitled to charge poundage on the amount of the second mortgage if the money passed through his hands. You will note that the amount of the third mortgage, the owner of which was the purchaser, is over twice the amount of the second mortgage.”

The syllabus of Opinion No. 1943, dated April 7, 1928, to which you refer, reads:

“The fees of a sheriff for poundage provided by Section 2845, General Code, are allowed and given as a compensation to the sheriff for the risk incurred in handling and disbursing money actually received by him in his official capacity. Where no money is received and no risk incurred, no compensation by way of poundage is earned.”

Your attention is directed to the language of Judge Crew in the case of *Major, Sheriff vs. The International Coal Co., et al.*, 76 O. S. 200, 208, which appears in my former opinion and which reads:

“Again, to give to the provisions of Section 1230, in the present case, the effect claimed for them by counsel for plaintiff in error, *would be to disregard the purpose for which poundage is allowed and given, namely, as a compensation to the sheriff for the risk incurred in handling and disbursing money actually received by him in his official capacity.* Where no money is received and no risk incurred, no compensation by way of poundage is earned, and \* \* \* none can be allowed or charged.” (Italics the writer’s.)

You state “the amount of the third mortgage, the owner of which was the purchaser, is over twice the amount of the second mortgage.” The fact that the holder of the third mortgage purchased the property in question in no wise affects the question that you present.

You state also that the money representing the amount of the second mortgage passed through the hands of the sheriff in his official capacity. This being true it is clear that the sheriff incurred some risk in handling the money representing the amount of the second mortgage and therefore comes within the principle in the case of *Major*,

*Sheriff vs. The International Coal Co.*, supra. It is my opinion, therefore, that such sheriff is entitled to the fees for poundage, as provided by Section 2845, General Code, on the money representing the amount of the second mortgage.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

2055.

INSURANCE—VILLAGE MAY PAY PREMIUMS ON GROUP INDEMNITY  
INSURANCE FOR VILLAGE'S EMPLOYEES.

SYLLABUS:

*The legislative authority of a village may, as a part of the compensation to its employes, legally authorize group indemnity insurance and pay the premium therefor from public funds.*

COLUMBUS, OHIO, May 4, 1928.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Permit me to acknowledge receipt of your request for my opinion, as follows:

“Opinion No. 37 dated February 1, 1927, advises that premiums for group life insurance on public employes may legally be paid from public funds as a part of the compensation to be paid such employes.

QUESTION—May the premium for indemnity insurance be legally paid from public funds, such insurance to be paid to injured employes who in addition receive compensation from the state insurance fund?

We are enclosing herewith copy of a resolution adopted by a village council authorizing such payments.”

The resolution adopted by the village council is as follows:

“A RESOLUTION

AUTHORIZING CERTAIN POLICIES OF INSURANCE

WHEREAS, the services of the members of the Volunteer Fire Department of the Village are of a hazardous nature; and

WHEREAS, any compensation awarded by the State of Ohio for injuries resulting from such service will be wholly inadequate; now, therefore,

Be It Resolved by the Village of \_\_\_\_\_, State of Ohio, that

The Mayor and Clerk be, and they hereby are, authorized and directed to procure indemnity insurance for the benefit of the members of the Volunteer